

**STATE OF GEORGIA
COUNTY OF FULTON
CITY OF SOUTH FULTON**

RESOLUTION NO. 2017-011

**RESOLUTION DECLARING THE CITY OF SOUTH FULTON'S AUTHORITY
WITHIN THE MUNICIPAL BOUNDARIES**

WHEREAS, the City of South Fulton ("City") is a municipal corporation duly organized and existing under the laws of the State of Georgia;

WHEREAS, pursuant to House Bill 514 of the 2016 session of the Georgia General Assembly (Act No. 421, 2016 p. 3726) (the "City Charter"), the City of South Fulton incorporates on May 1, 2017;

WHEREAS, Section 7.15(c) of the City Charter authorizes the elected Mayor and City Councilmembers to meet prior to May 1, 2017 and take actions to bind the City;

WHEREAS, on April 23, 2017, the Fulton County Board of Elections certified the election results of the runoff elections of the Mayor and City Councilmembers;

WHEREAS, the City is authorized to exercise various powers for the benefit, health, safety and welfare of its citizens, *see* City Charter §§ 1.12-1.13;

WHEREAS, O.C.G.A. § 36-31-8 authorizes the General Assembly to create transition periods for newly-incorporated cities like the City of South Fulton, and it provides a lawful exception to the prohibition of counties providing services within municipal boundaries. *See* Article IX, Section, 2, Paragraph 3 of the Constitution of Georgia;

WHEREAS, O.C.G.A. § 36-31-8 requires Fulton County to continue to provide services to the City of South Fulton until the expiration of the transition period or until the City of South Fulton commences providing services itself;

WHEREAS, Section 7.16 of the City Charter establishes a two-year transition period pursuant to O.C.G.A. § 36-31-8;

WHEREAS, Section 7.16 provides that during the transition period, "all ordinances of Fulton County shall remain applicable within the territorial limits of the City of South Fulton," but that the City of South Fulton may transfer "regulatory authority" to itself;

WHEREAS, it is well understood that the City of South Fulton may exercise governing authority within its borders; *see* City Charter, Sections 1.12 (describing municipal powers); 1.13 (describing exercise of municipal powers); 7.15 (establishing effective date of incorporation); 7.16(b)(9) (describing authority within transition period);

WHEREAS, it is further understood and recognized in Georgia that city councils often sit in a legislative capacity and a quasi-judicial capacity, and city governments also

exercise executive authority; *see Rozier v. Mayor*, 310 Ga. App. 178, 180 (2011) (describing different capacities of municipal government);

WHEREAS, when Section 7.16(d) speaks of a transition for the City of South Fulton to begin exercising “regulatory authority,” it is necessarily speaking of its authority to draft and enact its own ordinances, because to reach any other conclusion would render the act of incorporation largely meaningless;

WHEREAS, nothing prevents the City from exercising its quasi-judicial or administrative authority, even over services that must be provided by Fulton County pursuant to Fulton County’s current set of ordinances;

WHEREAS, the City’s authority is to be construed liberally; *see City Charter*, § 1.12(b);

WHEREAS, as of May 1, the Fulton County ordinances provide the governing law for municipal matters, but the City of South Fulton City Council is the governing body presiding over matters that fall within the scope of municipal authority, and consequently, the City Council is charged with adopting its own interpretation of the Fulton County ordinances, and it is empowered to make any decision that, prior to May 1, 2017, would be made by the Fulton County Board of Commissioners; and

WHEREAS, every Fulton County Ordinance impliedly substitutes the Mayor and City Council for the Fulton County Board of Commissioners on any quasi-judicial or legislative decision that affects City residents (e.g., approving or disapproving of applications);

BE IT HEREBY RESOLVED by the Mayor and City Council that:

1. The aforesaid recitals are not mere recitals, but are material portions of this Resolution;
2. The City Council of the City of South Fulton declares that, during the transition period authorized by O.C.G.A. § 36-31-8 and Section 7.16 of the Charter, until amended by City ordinance, Fulton County ordinances provide the governing law for areas within the City’s municipal boundaries; provided, however, to the extent Fulton County ordinances empower Fulton County Board of Commissioners to render any decision that falls within the scope of authority of the City of South Fulton and exclusively impacts residents within the City of South Fulton (e.g., licensing, applications, etc.), those decisions shall be made by the City of South Fulton and any decision rendered by the Fulton County Board of Commissions after May 1, 2017 that exclusively impacts the City’s residents shall not be recognized by the City of South Fulton.

The foregoing Resolution No. 2017-011 was offered by Councilmember Willis, who moved its approval. The motion was seconded by Councilmember Jackson, and being put to a vote, the result was as follows:

	AYE	NAY
William "Bill" Edwards, Mayor	<u>✓</u>	<u> </u>
Catherine Foster Rowell, <u>Mayor Pro Tem</u>	<u>✓</u>	<u> </u>
Carmalitha Lizandra Gumbs	<u>✓</u>	<u> </u>
Helen Zenobia Willis	<u>✓</u>	<u> </u>
Gertrude Naeema Gilyard	<u>✓</u>	<u> </u>
Rosie Jackson	<u>✓</u>	<u> </u>
khalid kamau	<u>✓</u>	<u> </u>
Mark Baker	<u>✓</u>	<u> </u>

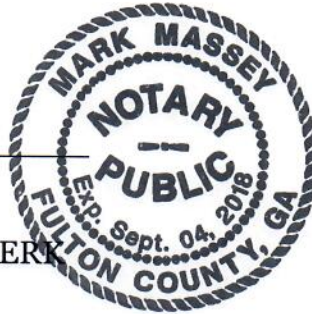
**** The Title Mayor Pro Tem will be added behind the name of the person selected.**

THIS RESOLUTION adopted this 29th day of April 2017. CITY OF
SOUTH FULTON, GEORGIA

[Signature]
WILLIAM "BILL" EDWARDS, MAYOR

ATTEST:

[Signature]
Mark Massey, CITY CLERK



APPROVED AS TO FORM:

[Signature]
Josh Belinfante, INTERIM CITY ATTORNEY